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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/835,559	04/17/2001	Mark T. Corl	8763.138.00	5910
30827 7590 04/09/2010 MCKENNA LONG & ALDRIDGE LLP 1900 K STREET, NW WASHINGTON, DC 20006				
EXAMINER				
HUYNH, SON P				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary****Application No.**

09/835,559

**Applicant(s)**

CORL, MARK T.

**Examiner**

SON P. HUYNH

**Art Unit**

2424

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 February 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 41-48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 41-48 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/02)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 2/19/10 have been fully considered but they are either not persuasive or are moot in view of the new ground(s) of rejection.

Applicant argues Ebling is not a proper § 102(e) reference because Ebling is a PCT application that was filed prior to November 29, 2000, the § 102(e) date for Ebling is the date when the requirements for U.S.C. § 371 (c)(1), (2), and (4) were met. See MPEP 706.02(0(1)). This requirement was met on October 13, 2000.

On the other hand, the present application claims priority to provisional application No. 60/197,676 filed April 17, 2000. Thus, the effective filing date of the present application is prior to § 102(e) date for Ebling and thus, Ebling is not a valid § 102(e) reference (page 1). This argument is respectfully traversed.

It's noted that in the front page of Ebling reference, it clearly indicates that PCT of Ebling reference has publication date: Apr. 22, 1999 and PCT Pub. No. for this PCT application is WO99/20049. It is further noted that Ebling reference has been submitted in the IDS filed 4/17/2009. Therefore, it appears that Applicant admitted Ebling reference is a prior art of application No. 09/835,559. In addition, the provisional application 60/197,676 does not support all disclosures or features claimed in 09/835,559. Therefore, the features that are not supported by the provisional application does not get the date of the provisional application. Furthermore, PCT of Ebling (i.e.,

WO99/20049) has been used and cited as prior art (e.g., in office action mailed 04/12/2007, 5/3/2006). Applicant also submitted WO99/20049 in NPL filed 3/5/2010 (last page). Thus, the Applicant acknowledged of WO99/20049 as prior art and appears to appear that Applicant admitted Ebling reference is a prior art of application No. 09/835,559.

For the reasons given above, this rejection is made final either by the previous rejection nor based on reference provided in the IDS (for example, NPL submitted 3/5/2010).

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 41-46 and 48 are rejected under 35 U.S.C. 102(e) as being anticipated by Ebling et al. (US 7,150,029 B1).

Regarding claim 41, Ebling discloses digital television (DTV) receiver (figure 18, col. 3, lines 5-20) configured to receive a DTV signal containing program and event guide data (DTV signal containing program and program guide data – figures 17-18, col. 1, lines 51-67), which when received by the DTV receiver causes the DTV receiver to perform the following method comprising:

    parsing an information type descriptor (e.g., descriptor for MGT, AGDT, multimedia object, etc. - see figures 6-16) including an information type identification field that contains an identification (ID) code of the specifying a data type (e.g., ID code of data type such as program guide map, multimedia object, rating, etc.) and a format type of graphic information (e.g., object format) to be displayed in an Electronic Program Guide (EPG) on a display screen, the graphic information being associated with a broadcast event or a source of the broadcast event (object information for network name, event title, etc. ), the information type descriptor being directly received from the source of the broadcast event (descriptor of MGT, AGDT, multimedia object, etc. being directly received from the source of broadcast event such as broadcaster, satellite source, cable source, etc.) - see include, but are not limited to, figures 2-18, col. 4, line 35-col. 6, line 50, col. 8, line 41-col. 13, line 59);

    parsing an extended information descriptor including display information provided by the source of the broadcast event (parsing extended information descriptor such as linkage descriptor, extended text table descriptor, or extended channel information descriptor, etc. including display information provided by the satellite source, cable source, etc. or broadcast event such as channel name, linkage information, etc. - see

include, but are not limited to, figures 2-18, col. 3, line 35-col. 4, line 6, col. 4, lines 35-50, col. 8, line 32-col. 13, line 59); and

displaying the graphic information in the EPG according to the display information (see include, but not limited to, figures 2, 18).

Regarding claim 42, Ebling discloses DTV receiver as discussed in the rejection of claim 41. Ebling further disclose the data type of the graphic information characterizes the graphic information as one of image, text, and video data (see include, but not limited to, col. 5, lines 31-36).

Regarding claim 43, Ebling discloses DTV receiver as discussed in the rejection of claim 41. Ebling further disclose the format type of the graphic information characterizes the graphic information as one of GIF-formatted, JPEG-formatted, TIFF-formatted, and XBM-formatted image data (e.g., still image JPEG format – see include, but not limited to, col. 5, lines 31-36).

Regarding claim 44, Ebling discloses DTV receiver as discussed in the rejection of claim 41. Ebling further disclose the format type of the graphic information characterizes the graphic information as one of plain ascii, HTML-formatted, and Xml-formatted text data (e.g., HTML format - see include, but not limited to, col. 5, lines 31-36).

Regarding claim 45, Ebling discloses DTV receiver as discussed in the rejection of claim 41. Ebling further disclose the format type of the graphic information characterizes the graphic information as one of MPEG-formatted, Quicktime- formatted, and AVI-formatted video data (MPEG format - see include, but not limited to, col. 5, lines 31-36).

Regarding claim 46, Ebling discloses DTV receiver as discussed in the rejection of claim 41. Ebling further disclose the display information comprises expected usage information describing an expected usage of the graphic information, the expected usage including a display option of the graphic information (e.g. user selection of a preview icon, or web page icon, or to display graphic information for video clip, web page, or still image, etc. - see include, but not limited to, figure 2, col. 4, lines 35-50, col. 12, line 28-col. 13, line 43).

Regarding claim 48, Ebling discloses DTV receiver as discussed in the rejection of claim 41. Ebling further disclose the display information comprises display time information specifying a desired display time of the graphic information in the EPG (see include, but not limited to, figure 2, col. 4, lines 35-50, col. 8, lines 41-47, col. 12, line 28-col. 13, line 43).

4. Claims 41-46 and 48 are alternatively rejected under 35 U.S.C. 102(b) as being anticipated by Ebling et al. (WO99/20049).

Regarding claim 41, Ebling discloses digital television (DTV) receiver (figure 18, page 5, lines 11-25) configured to receive a DTV signal containing program and event guide data (DTV signal containing program and program guide data – figures 17-18, page 2, lines 11-25), which when received by the DTV receiver causes the DTV receiver to perform the following method comprising:

    parsing an information type descriptor (e.g., descriptor for MGT, AGDT, multimedia object, etc. - see figures 6-16) including an information type identification field that contains an identification (ID) code of the specifying a data type (e.g., ID code of data type such as program guide map, multimedia object, rating, etc.) and a format type of graphic information (e.g., object format) to be displayed in an Electronic Program Guide (EPG) on a display screen, the graphic information being associated with a broadcast event or a source of the broadcast event (object information for network name, event title, etc. ), the information type descriptor being directly received from the source of the broadcast event (descriptor of MGT, AGDT, multimedia object, etc. being directly received from the source of broadcast event such as broadcaster, satellite source, cable source, etc.) - see include, but are not limited to, figures 2-18, page 8, line 6-page 12, line 23, page 16, line 18-page 26, line 28);

    parsing an extended information descriptor including display information provided by the source of the broadcast event (parsing extended information descriptor such as linkage descriptor, extended text table descriptor, or extended channel information descriptor, etc. including display information provided by the satellite source, cable source, etc. or broadcast event such as channel name, linkage information, etc. - see



include, but are not limited to, figures 2-18, page 6, line 9-page 7, line 11, page 8, lines 6-18, page 16, line 10-page 26, line 28); and

displaying the graphic information in the EPG according to the display information (see include, but not limited to, figures 2, 18).

Regarding claim 42, Ebling discloses DTV receiver as discussed in the rejection of claim 41. Ebling further disclose the data type of the graphic information characterizes the graphic information as one of image, text, and video data (see include, but not limited to, page 10, lines 3-10).

Regarding claim 43, Ebling discloses DTV receiver as discussed in the rejection of claim 41. Ebling further disclose the format type of the graphic information characterizes the graphic information as one of GIF-formatted, JPEG-formatted, TIFF-formatted, and XBM-formatted image data (e.g., still image JPEG format – see include, but not limited to, page 10, lines 3-10).

Regarding claim 44, Ebling discloses DTV receiver as discussed in the rejection of claim 41. Ebling further disclose the format type of the graphic information characterizes the graphic information as one of plain ascii, HTML-formatted, and Xml-formatted text data (e.g., HTML format - see include, but not limited to, page 10, lines 3-10).

Regarding claim 45, Ebling discloses DTV receiver as discussed in the rejection of claim 41. Ebling further disclose the format type of the graphic information characterizes the graphic information as one of MPEG-formatted, Quicktime- formatted, and AVI-formatted video data (MPEG format - see include, but not limited to, page 10, lines 3-10).

Regarding claim 46, Ebling discloses DTV receiver as discussed in the rejection of claim 41. Ebling further disclose the display information comprises expected usage information describing an expected usage of the graphic information, the expected usage including a display option of the graphic information (e.g. user selection of a preview icon, or web page icon, or to display graphic information for video clip, web page, or still image, etc. - see include, but not limited to, figure 2, page 8, lines 6-18, page 24, line 1-page 26, line 13).

Regarding claim 48, Ebling discloses DTV receiver as discussed in the rejection of claim 41. Ebling further disclose the display information comprises display time information specifying a desired display time of the graphic information in the EPG (see include, but not limited to, figure 2, page 8, lines 6-18, page 16, lines 18-24, page 24, line 1-page 26, line 13) col. 4, lines 35-50, col. 8, lines 41-47, col. 12, line 28-col. 13, line 43.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 47 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ebling as applied to claim 41 above, and further in view of Nishina et al. (US 7,178,158 B2).

Regarding claim 47, Ebling discloses DTV receiver as discussed in the rejection of claim 41. Ebling does not explicitly disclose the display information comprises display location information specifying a desired display location of the graphic information in the EPG.

Nishina discloses display information comprises display location information specifying a desired display location of the graphic information in the EPG (e.g., layout information comprising display position, position of button, etc. - see include, but are not limited to, figures 5, 16, 34-38). Nishina further discloses information type descriptor comprising data type and a picture format No., movie format No., text format No., etc. (see figures 16-38). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ebling with the teaching as taught by Nishina in order to display graphic information in the EPG at desired/predetermined location.

7. Claim 47 is alternatively rejected under 35 U.S.C. 103(a) as being unpatentable over Ebling (WO99/20049) as applied to claim 41 above, and further in view of Nishina et al. (US 7,178,158 B2).

Regarding claim 47, Ebling discloses DTV receiver as discussed in the rejection of claim 41. Ebling does not explicitly disclose the display information comprises display location information specifying a desired display location of the graphic information in the EPG.

Nishina discloses display information comprises display location information specifying a desired display location of the graphic information in the EPG (e.g., layout information comprising display position, position of button, etc. - see include, but are not limited to, figures 5, 16, 34-38). Nishina further discloses information type descriptor comprising data type and a picture format No., movie format No., text format No., etc. (see figures 16-38). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ebling with the teaching as taught by Nishina in order to display graphic information in the EPG at desired/predetermined location

### ***Conclusion***

8. **THIS ACTION IS MADE FINAL** according to previous rejection; or

Applicant's submission of an information disclosure statement under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p) on 3/5/2010 prompted the new

ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 609.04(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to SON P. HUYNH whose telephone number is (571)272-7295. The examiner can normally be reached on 9:00 - 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher S. Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Son P Huynh/  
Primary Examiner, Art Unit 2424

April 8, 2010